IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8071 of 1991

WITH

CIVIL APPLICATION No 4504 of 2002

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

HARSHAD MANILAL JANI

Versus

ABAD DAIRY

Appearance:

1. Special Civil Application No. 8071 of 1991
MR KR KOSHTI for Petitioner No. 1-4/4
MR Deepak V Patel for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 15/04/2005

ORAL JUDGEMENT

1. By filing this petition under Article 226 of the Constitution of India, the petitioners have prayed that the petitioners may be given benefit of payscale of Rs.550-900 w.e.f. 1.1.1976,

2. Heard learned advocate Mr. K.R. Koshti for the petitioners and Mr. Deepak V. Patel for the respondent.

3. It is the case of the petitioners that petitioners No. 1 and 2 are appointed as Technical Supervisors and subsequently they have been absorbed as Senior Technical Supervisors. It is also submitted that the petitioners No. 3 and 4 were working as Foreman.

4. Learned advocate Mr. Koshti submitted that as per the award given by Arbitrator Shri G.S. Barot, the petitioners are entitled to payscale of 550-900 w.e.f. 1.1.1976. It is submitted by learned advocate Mr. Koshti that petitioners No. 1 and 2 have been given such benefit from 1986, and not from 1976. It is also submitted by learned advocate Mr. Koshti that petitioners No. 3 and 4 have not been given the benefit of such higher payscale at all, and they continued to get the old the payscale of Rs.440-750, and they are required to be given such benefit from 1.1.1976. Learned advocate for petitioners Mr. Koshti submitted that during the pendency of the petition, petitioner No. 4 has expired and his heirs and legal representatives have been brought on record.

5. The petition is resisted by the respondent by filing an affidavit-in-reply. It is stated therein that petitioner No.1 has been retrenched and the respondent has paid all legal dues to petitioner No.1. It is further stated therein that petitioners No. 2, 3 and 4 have taken voluntary retirement and the legal dues have also been paid to them. It is stated therein that the petitioners have accepted the legal dues without any objection. It is, therefore, submitted by the learned advocate for the respondent that the petitioners are not entitled to claim any benefit.

6. Learned advocate Mr. Koshti submitted that since the respondent Dairy is closed as per the scheme sanctioned by BIFR, instead of pursuing this petition, the petitioners would like to pursue the matter before the appropriate authority, i.e. Managing Director of Gujarat Dairy Development Corporation Limited, by making a representation, and, therefore, the petitioners seek

permission to withdraw this petition. Since the petitioners want to make a representation to the appropriate authority, and as learned advocate stated that he wants to withdraw the petition without inviting any order on merits, it is not necessary to decide the matter on merits.

7. Accordingly, the petitioners are permitted to withdraw this petition. If any representation is made by the petitioners, the appropriate authority may decide it in accordance with law. It is clarified that this Court has not expressed any opinion on the merits of the matter, and it will be open to the appropriate authority to decide the representation in accordance with law. As the petition was pending since 1991, the appropriate authority may decide the representation as early as possible, preferably within three months from the date of receipt of the representation.

8. This petition stands disposed of as withdrawn with the above observations. Rule is discharged. No order as to costs.

9. In view of the above order passed in Special Civil Application No. 8071 of 1991, Civil Application No. 4504 of 2002 does not survive, and it stands disposed of accordingly.

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